IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 15515 of 2004

Between:

B.H.Suryanaryana Raju, S/o.Pullamraju,
R/o.Siddapuram, Akividu, W.G.Dist.

..... PETITIONER

AND

Addl. Asst.Engineer, Operation A.P.E.P.D.C.L. Akividu, W.G.Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the notice No.Lr.No.AAE/AKVD/F.Doc/D.No.60/04, dated 16-08-2004, issued by the Respondent herein as illegal, arbitrary and unjust and contrary to the principles of natural justice by issuing any appropriate writ of Mandamus, order or direction.

Counsel for the Petitioner:MR.M.V.S.SURESH KUMAR

Counsel for the Respondent : SMT.M.VINOBHA DEVI

The Court made the following :

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ORDER:

Heard the learned counsel for the petitioner and Smt.M.Vinobha Devi, learned Standing Counsel appearing for the respondent.

The petitioner states that he is the absolute owner and possessor of the land measuring Ac.5.97 cents situated in S.NO.396 of Siddapuram village of Akivedu section, and having converted the same into fish tank during the year 1986, he has been rearing fish in the tank. He states that the fish tank has been provided electricity service connection bearing No.161 and that he has been paying the electricity bills regularly without any default for the past several years. While so, the impugned proceedings dated 16.08.2004 issued by the respondent have been served on the petitioner, stating that the Forest Range Officer, Wild Life Management, Eluru Range has informed that the fish tank service connection No.161 of the petitioner is located in +5 contour area and instructions were issued to remove the service connection and therefore the service connection of the petitioner will be disconnected and the meter will also be removed after one week from the date of receipt of the said notice. Aggrieved by the said notice, this writ petition has been filed.

The petitioner denies the allegations made in the impugned notice and states that the unilateral decision of the respondent in the impugned notice to disconnect the power supply to the service connection of the petitioner without affording any opportunity to rebut the allegations made therein, is arbitrary and illegal, apart from being without jurisdiction.

A reading of the impugned notice dated 16.08.2004 shows that the petitioner was not issued any prior notice to rebut the allegations that the land in question is located in +5 contour area. It is also the specific plea of the petitioner that the West Godavari District Gazette Extraordinary dated 11.11.1999 on the basis of which the impugned notice appears to have been issued, has not been served on him and in the absence of the same, he cannot effectively explain the allegations in the impugned notice.

Having regard to the facts and circumstances of the case, I am of the view that the action proposed in the impugned notice cannot be taken without affording an opportunity to the petitioner to meet the allegations made in the impugned notice.

Accordingly, the impugned notice dated 16-08-2004 is set aside and the writ petition is disposed of with a direction to the respondent to furnish a copy of the West Godavari District Gazette Extraordinary Published by Authority No.422, Eluru, dated 11-11-1999 which is referred to in the impugned proceedings dated 16-08-2004 within one week from today. On receipt of the said proceedings, it is open to the petitioner to submit his explanation to the respondent treating the impugned notice as show-cause notice within one week thereafter. If such explanation is received within the time specified above, the respondent shall consider the same and pass appropriate orders in accordance with law. Till such orders are passed, there shall not be any disconnection of power supply to the service connection No.161 of Siddapuram village, Akividu Section.

The Writ Petition is accordingly disposed of. No costs.

30th August, 2004.

sh/gbs

To

1. **Addl. Asst.Engineer, Operation A.P.E.P.D.C.L. Akividu, W.G.Dist**

2.2CD copies

THE HON'BLE MS JUSTICE G.ROHINI

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Dated : 30.08.2004